

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CORNELIOUS TUGGLE,

Plaintiff,

v.

**DOKO HAY d/b/a DHUGOHAY
TRUCKING,**

Defendant.

**CIVIL ACTION FILE
NO.: _____**

JURY TRIAL DEMANDED

NOTICE OF REMOVAL

**TO: THE JUDGES, UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION**

Defendant Doko Hay d/b/a Dhugohay Trucking removes the civil action captioned *Cornelious Tuggle v. Doko Hay d/b/a Dhugohay Trucking*, Civil File Action No.: 21-A-760 from the State Court of Cobb County, Georgia to the United States District Court for the Northern District, Atlanta Division. Removal is based upon the following:

Removal Based on Diversity Jurisdiction Pursuant to 28 U.S.C. § 1441

1. This Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1332 and this matter may be removed to this Court under 28 U.S.C. § 1441(a).

Description of Suit

2. Plaintiff filed a Complaint for Damages (“Complaint”) against Defendant Doko Hay d/b/a Dhugohay Trucking alleging negligence related to a motor vehicle accident that occurred on or about October 16, 2019 in Cobb County, Georgia. [Plaintiff’s Complaint, March 1, 2021, Ex. 1].

3. Defendant Doko Hay d/b/a Dhugohay Trucking filed an Answer in response to Plaintiff’s Complaint on or about April 7, 2021. [Answer of Defendant, April 7, 2021, Ex.2].

Compliance with Deadline for Removal

4. The notice of removal of a civil action or proceeding shall be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. 28 U.S.C. § 1446(b)(1).

5. Defendant Doko Hay d/b/a Dhugohay Trucking was served with Summons and Complaint on March 8, 2021. [Affidavit of Service – Doko Hay d/b/a Dhugohay Trucking, March 17, 2021, Ex. 3]

6. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b)(1).

The Diversity of Citizenship Requirement

7. Plaintiff is a citizen and resident of the state of Georgia. [Affidavit of Evan E. Smith, IV, Ex. 4, ¶ 3].

8. Defendant Doko Hay d/b/a Dhugohay Trucking is a citizen and resident of the state of North Carolina. [Affidavit of Evan E. Smith, IV, Ex. 4, ¶ 4].

9. Complete diversity exists in this action.

The Amount in Controversy Requirement

10. Plaintiff's Complaint seeks a judgment for past and future medical expenses, pain and suffering, disability, lost wages, loss of earning capacity, loss of enjoyment of life, disability, anxiety, mental and emotional suffering, and all other damages to be proven at trial. [Plaintiff's Complaint, Ex. 1, ¶¶ 80-81].

11. Prior to filing suit, Plaintiff Cornelious Tuggle issued a settlement demand in the amount of \$750,000. [Plaintiff Cornelious Tuggle's November 16, 2020 Settlement Demand, Ex. 5].

12. Plaintiff's pre-suit settlement demand further alleged \$86,340.21 in past medical expenses and lost wages and \$168,655.07 in expected future medical expenses. [Plaintiff Cornelious Tuggle's November 16, 2020 Settlement Demand, Ex. 5].

13. The amount in controversy in this action exceeds \$75,000.

The State Court Proceeding

14. The state court proceeding is identified as follows: *Cornelious Tuggle v. Doko Hay d/b/a Dhugohay Trucking*, Civil File Action No.: 21-A-760 in the State Court of Cobb County, Georgia. A Notice of Removal will be filed with the State Court upon the filing of this Notice of Removal.

All State Court Documents

15. All state court documents required to be filed with this Notice are attached hereto: Plaintiff's Complaint for Damages [Exhibit 1] and Answer of Defendant [Exhibit 2].

WHEREFORE, Defendant Doko Hay d/b/a Dhugohay Trucking wishes to exercise its rights under the provisions of 28 U.S.C. § 1441, *et seq.* to remove this action from the State Court of Cobb County, Georgia to the United States District Court, Northern District of Georgia, Atlanta Division.

[Signature on Following Page]

This 7th day of April, 2021.

NALL & MILLER, LLP

By: /s/ *Evan E. Smith*
MICHAEL D. HOSTETTER
Georgia Bar No.: 368420
EVAN E. SMITH, IV
Georgia Bar No. 514676

ATTORNEYS FOR DEFENDANT

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CERTIFICATE OF COMPLIANCE WITH N.D. GA. LOCAL RULE 5.1

I hereby certify that this **NOTICE OF REMOVAL** was drafted in accordance with Northern District of Georgia Local Rule 5.1.

NALL & MILLER, LLP

By: /s/ *Evan E. Smith*
EVAN E. SMITH, IV
Georgia Bar No. 514676

ATTORNEY FOR DEFENDANT

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CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the within and foregoing ***NOTICE OF REMOVAL*** with the Clerk of Court in this matter, and served a true copy of same by First Class U.S. Mail, proper postage prepaid, to the following counsel of record:

R. Sean McEvoy
WHITHERITE LAW GROUP, LLC
600 West Peachtree Street, NW, Suite 740
Atlanta, Georgia 30308
sean.mcevoy@witheritelaw.com
Attorney for Plaintiff

This 7th day of April, 2021.

NALL & MILLER, LLP

By: /s/ *Evan E. Smith*
EVAN E. SMITH, IV
Georgia Bar No. 514676

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